



March 9, 2022

SENT VIA EMAIL: pubcomment-ees.enrd@usdoj.gov

Assistant Attorney General

U.S. DOJ—ENRD

P.O. Box 7611

Washington, DC 20044-761

Re: Comments on proposed Consent Decree
United States v. New-Indy Catawba LLC, D.J. Ref. No. 90-5-2-1-12471

Dear Sir or Madam:

The South Carolina Department of Health and Environmental Control (hereinafter "DHEC") respectfully submits the following comments to the proposed Consent Decree in *United States of America vs. New Indy Catawba LLC* [Civil No. 0:21-cv-02053-SAL] (hereinafter "Decree") that was filed in federal court on December 29, 2021.

DHEC greatly appreciates the collaboration, support and technical resources that the United States Environmental Protection Agency (hereinafter "EPA") provided to assist with the investigation and response to an unprecedented number of odor and health reports from the communities around the New Indy Container Board (hereinafter "NICB") facility located in Catawba, South Carolina. With the confirmation of concentrations of hydrogen sulfide from the EPA's Geospatial Measurement of Air Pollution (GMAP) mobile lab measurements and back-trajectories calculated by DHEC meteorologists, we were able to confirm that NICB was a significant source of the sulfur-type odors in the region. Shared data and information between EPA and DHEC resulted in two orders, one from each agency, directing NICB to identify potential on-site odor sources and take action(s) to reduce the offsite impacts that the odor was causing the nearby communities. On May 7, 2021, DHEC issued a "Determination of Undesirable Levels Order to Correct Undesirable Level of Contaminants" under the authority of the South Carolina Pollution Control Act; and on May 13, 2021, EPA issued a "Section 303 Emergency Order" under the authority of Section 303 of the Clean Air Act.

Considerable progress has been made on restoring the effectiveness of the Aeration Stabilization Basin (ASB), reducing emissions from the surface and discharge

of Holding Pond 1 and minimizing the potential for emissions from the ASB sludge dewatering occurring in Sludge Basin 4. However, DHEC recommends that the final consent agreement include explicit maintenance, operation, and anti-backsliding requirements to help prevent these identified H₂S sources from again becoming a problem.

We respectfully submit the following additional comments on the Decree:

Monitoring Requirements

The minimum detection limit (hereinafter "MDL") listed in the Decree for fence line monitoring is not consistent with the requirements in the currently approved QAPP. The current model fence line monitors should be maintained, providing an MDL of 0.4 ppb. Additionally, a footnote should be required in the monitoring reports specifying what the instrument MDL is, as this impacts what is currently reported as "zero".

DHEC strongly supports the continuation of community monitoring and will encourage NICB to upgrade the existing community monitors to improve instrument sensitivity (lower the MDL) so the community can be provided more meaningful data. DHEC recommends additional community monitoring, up to and including the installation of a fence line quality monitor in a representative community northwest of the facility.

DHEC encourages the continued reporting of all monitoring data to the public, with daily reporting of summary reports for fence line and community monitors and 30-minute averages for fence line monitors.

Exceedance Reporting Requirements

DHEC believes reporting of exceedance of the 30 minute or 7-day Fence Line Limits should be as soon as possible, but no later than 24 Hours after the event detection based on the easily calculated rolling average.

DHEC also recommends that the Local Emergency Planning Committee be notified immediately of any potential exceedance or upset condition.

Permitting Requirements

In Appendix A on page 5, there may be an incorrect reference. Paragraph I of Appendix A (page 1) of the Decree requires New Indy to operate the steam stripper, allowing a set number of hours of downtime for maintenance, and requiring the facility to chemically treat any condensate that is sent to the Aeration Stabilization Basin (ASB). Paragraph VI.a.i of Appendix A states that the permit should incorporate a condition to require the unstripped condensate to be chemically treated before discharge to the ASB as described in paragraph I.a. However, paragraph I.a. only outlines the provisions

for the stripper operation and not the chemical treatment of the unstripped condensate. Please correct the reference to clarify the intent (Paragraph I.a., I.b., or both I.a. and I.b.).

In conclusion, DHEC appreciates this opportunity to provide comments on the Decree. If our staff can answer any questions regarding these written comments, please don't hesitate to contact me at martinsv@dhec.sc.gov or (803) 898-0288.

Sincerely,



Sara V. Martinez,
Chief Counsel for Environmental Affairs

cc: Myra Reese, Director of Environmental Affairs, SCDHEC (via email)
Steve O'Rourke, Esq., Senior Attorney, USDOJ (via email)